



FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Elimination of Mandatory Roth Distributions

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Direct final rule.

SUMMARY: This direct final rule makes technical conforming revisions necessary to implement statutory amendments made by the SECURE 2.0 Act of 2022. Specifically, it eliminates the requirement to take mandatory Roth distributions.

DATES: This rule is effective on January 1, 2024, unless significant adverse comment is received by December 15, 2023.

ADDRESSES: You may submit comments using one of the following methods:

- Federal Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Office of General Counsel, Attn: Dharmesh Vashee, Federal Retirement Thrift Investment Board, 77 K Street, N.E., Suite 1000, Washington, D.C. 20002.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* contact Kim Weaver at (202) 942-1641. *For information about commenting on this rule:* contact Magali Matarazzi at (202) 805-2823.

SUPPLEMENTARY INFORMATION: The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

Background

The Internal Revenue Code requires TSP participants to receive a portion of their TSP account ("required minimum distribution") beginning when they reach a specific age and are separated from service. Currently, a participant's entire TSP account—both traditional and Roth—is subject to the required minimum distribution rules of the Internal Revenue Code. If a separated participant does not withdraw from his or her account an amount sufficient to satisfy his or her required minimum distribution for the year, FRTIB regulations provide that the TSP record keeper will automatically distribute the necessary amount pro rata from the participant's traditional balance and the participant's Roth balance.

Section 325 of the SECURE 2.0 Act of 2022, which was

included in Division T of the Consolidation Appropriation Act, 2023 (Pub. L. 117-328), amended the Internal Revenue Code to eliminate the requirement to take mandatory Roth distributions. To conform FRTIB regulations to this statutory amendment, this rule will delete the provision of FRTIB regulations that says the TSP record keeper will distribute required minimum distributions pro rata from traditional balances and Roth balances.

Direct Final Rulemaking

A direct final rule is a final rule that does not go through proposed rulemaking first. We use direct final rulemaking when we expect that the rule will generate no significant adverse comments. We are issuing a direct final rule because we expect this regulatory change to be entirely non-controversial. This rule does not involve any statutory interpretation or create any new regulatory law. We believe this rule does no more than conform FRTIB regulations to the Internal Revenue Code as amended by the SECURE Act of 2022. However, to be certain that we are correct, we set the comment period to end before the effective date. If we receive a significant adverse comment, we will withdraw the direct final rule before it becomes effective.

For purposes of this rulemaking, a significant adverse comment is one that explains (1) why the rule is inappropriate, including challenges to the rule's

underlying premise or approach; or (2) why the rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, the FRTIB will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice-and-comment process. A comment that objects to the underlying statutory amendments to which FRTIB regulations must conform will be considered out of scope. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective or unacceptable without the addition.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect only participants and beneficiaries of the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, and which is administered by the FRTIB.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501-1571, the effects of this regulation on State, local, and Tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by State, local, and Tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the FRTIB submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the Federal Register. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB amends 5 CFR chapter VI as follows:

**PART 1650 - METHODS OF WITHDRAWING FUNDS FROM THE THRIFT
SAVINGS PLAN**

1. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474 (b) (5) and 8474 (c) (1) .

§ 1650.16 [Amended]

2. Amend § 1650.16 by removing paragraph (d) .

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